

Remarks

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

Claims 1, 20, 22, and 26 have been amended and claims 7-21 have been withdrawn as being drawn to a non-elected species. Claims 1-6 and 22-27 remain under examination. Claim 22 has been amended to clearly depict the tropanyl epoxide moiety of the compound (i.e., showing the azabicyclo[3.2.1]octane moiety instead of the azabicyclo[2.2.1]heptane as previously submitted). Written descriptive support for the amendment to claim 22 is found at paragraph [0032] of the present application. In view of this amendment, applicants submit that claims 22-23 should not be withdrawn from consideration.

The rejection of claim 26 under 35 U.S.C. § 112 (2nd para.) for indefiniteness is respectfully traversed in view of the above amendments.

The rejection of claims 1-6 and 22-27 under 35 U.S.C. § 103(a) as being unpatentable over WO 02/45711 A1 to Bannister et al. ("Bannister") in view of U.S. Patent No. 6,482,837 to Wood ("Wood Patent") is respectfully traversed.

Bannister relates to the simultaneous, sequential, or separate use of an anti-muscarinic agent and a calcium channel blocker in the treatment of a muscle tone disorder or a proliferative, inflammatory, or secretory condition. Anti-muscarinic agents that can be used in this invention include tiotropium. Bannister also discloses that the active agent may be used in therapy where the condition to be treated involves urinary incontinence. Bannister discloses topical use of anti-muscarinic agents either dermally to the lung or to the gastrointestinal tract. However, Bannister fails to mention or suggest administering anti-muscarinic agent intravesically as required by the claimed invention.

The Wood Patent is cited to overcome the above-noted deficiency. It relates to anti-muscarinic compounds, and derivatives of anti-muscarinic compounds, and their use in the treatment of bladder disease, particularly urinary incontinence by intravesical instillation.

Since the Wood Patent and the present application are both assigned to the University of Rochester, the Wood Patent cannot be used to support an obviousness rejection where the Wood Patent constitutes prior art under 35 U.S.C. §§ 102(e), (f), (g). The Wood Patent is clearly not prior art under categories of 35 U.S.C. §§ 102(c) and (d). The claims of the present application which are undergoing examination are entitled to the January 16,

2003, filing date of U.S. Provisional Patent Application Serial No. 60/441,391 (See attached claim chart at Exhibit A). Since the Wood Patent issued on November 19, 2002, which is less than a year before the present application's January 16, 2003, effective filing date, the Wood Patent is not prior art under 35 U.S.C. § 102(b). Finally, since inventor Ronald W. Wood is the sole inventor of the present application and the Wood Patent, the Wood Patent does not qualify as prior art under 35 U.S.C. § 102(a).

Since the Wood Patent is not prior art under 35 U.S.C. § 102, the obviousness rejection of claims 1-6 and 24-27 is improper and should be withdrawn.

In view of all of the foregoing, applicant submits that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

Date: June 28, 2010

/Michael L. Goldman/
Michael L. Goldman
Registration No. 30,727

NIXON PEABODY LLP
1100 Clinton Square
Rochester, New York 14604-1792
Telephone: (585) 263-1304
Facsimile: (585) 263-1600